



08 DEC 2006

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Bott et al.	:	
Application No. 10/567,496	:	
PCT No.: PCT/EP04/08961	:	
Int. Filing Date: 10 August 2004	:	COMMUNICATION
Priority Date: 11 August 2003	:	
Atty. Docket No.: 2003P01124WOUS	:	
For: Vacuum Cleaner Having	:	
A Blower Capsule	:	

This is in response to the declaration of the inventors filed on 21 August 2006, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 10 August 2004, claimed an earliest priority date of 11 August 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 24 February 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 February 2006 (since 11 February 2006 was a Saturday).

Applicant filed, *inter alia*, the basic national fee on 07 February 2006.

On 07 August 2006, a Notice of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed on 21 August 2006 reveals that joint inventor Anja Niedergesass is indicated to be "deceased" and that Jorg Niedergesass has signed on her behalf. 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration filed on 21 August 2006 reveals that Jorg Niedergesass has signed in the capacity of "legal representative of the deceased inventor," and that the declaration identifies his citizenship, residence and postal address. The declaration does not explicitly provide "the facts which the inventor would have been required to state" in that Anja Niedergesass' citizenship, residence and mailing address information is not explicitly listed, nor is the residence and/or mailing address provided on an Application Data Sheet. Although the English translation of the German language documentation of Mr. Niedergesass' appointment as executor identifies an address where the deceased inventor is indicated as "most recently having resided," this is not sufficient to cure the defect in the declaration. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept it under 37 CFR 1.42 at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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